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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003-NM-105-AD; Amendment 39-13694; AD 2004-13-12]

RIN 2120-AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all EMBRAER Model EMB-120 series airplanes, that requires revising the Airplane Flight Manual to ensure that the propeller synchronizer switch is "OFF" after engine start and before takeoff and landing. This action is necessary to prevent a possible loss of airplane control and subsequent injury to the flight crew and passengers. This action is intended to address the identified unsafe condition.

DATES: Effective August 6, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 6, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all EMBRAER Model EMB-120 series airplanes was published in the Federal Register on April 1, 2004 (69 FR 17095). That action proposed to require revising the Airplane Flight Manual to ensure that the propeller synchronizer switch is "OFF" after engine start and before takeoff and landing.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

One commenter requests that the FAA modify the Discussion section in the proposed AD to read "* * * the pilot's control of engine power during critical phases of the flight could be limited below the maximum power. Such limitation could result in a reduction of certified climb gradient and subsequent injury to the flight crew and passengers" instead of "* * * the pilot's control of engine power during critical phases of the flight could be impeded. Such an impediment could result in loss of control of the airplane and subsequent injury to the flight crew and passengers."

We agree with the commenter's request. However, the Discussion section of the proposed AD is not restated in the final rule, so no change to the final rule is needed.

Explanation of Change Made to Final Rule

We have revised paragraph (a)(2) of this final rule to reference Revision 65 of EMBRAER EMB-120 Airplane Flight Manual AFM-120/794; the proposed AD referenced revision 64 as the appropriate service information for the AFM revision. The specific AFM pages referenced in that paragraph were not revised at Revision 65, so they remain marked as Revision 64. However, because the AFM is at Revision 65, this revision is necessary to correctly identify the AFM and to meet the Office of the Federal Register's guidelines for materials incorporated by reference. There is no change to the AFM revision requirement specified in that paragraph.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as revised.

Cost Impact

The FAA estimates that 217 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$14,105, or \$65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AIRWORTHINESS DIRECTIVE



Aircraft Certification Service
Washington, DC

U.S. Department
of Transportation
**Federal Aviation
Administration**

We post ADs on the internet at "www.faa.gov"

The following Airworthiness Directive issued by the Federal Aviation Administration in accordance with the provisions of Title 14 of the Code of Federal Regulations (14 CFR) part 39, applies to an aircraft model of which our records indicate you may be the registered owner. Airworthiness Directives affect aviation safety and are regulations which require immediate attention. You are cautioned that no person may operate an aircraft to which an Airworthiness Directive applies, except in accordance with the requirements of the Airworthiness Directive (reference 14 CFR part 39, subpart 39.3).

2004-13-12 Empresa Brasileira De Aeronautica S.A. (Embraer): Amendment 39-13694. Docket 2003-NM-105-AD.

Applicability: All Model EMB-120 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a possible loss of airplane control and subsequent injury to the flight crew and passengers, accomplish the following:

Revision of the Airplane Flight Manual (AFM)

(a) Within 30 days from the effective date of this AD, do the actions specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Revise the Limitations Section of the AFM to include the following text in "Section II—Limitations" under title "Powerplant," subtitle "Propeller" (this may be accomplished by inserting a copy of this AD into the AFM):

"For takeoff and landing PROP SYNC must be OFF"

Note 1: When a statement identical to that in paragraph (a)(1) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

(2) Revise the Normal Procedures section of the AFM by inserting pages 4-17, 4-23, and 4-27 of EMBRAER AFM 120/794, Revision 65, dated June 10, 2003, into the AFM.

Alternative Methods of Compliance

(b) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(c) Unless otherwise specified in this AD, the actions shall be done in accordance with EMBRAER EMB-120 Airplane Flight Manual AFM-120/794, Revision 65, dated June 10, 2003, which contains the following list of effective pages:

Page number	Revision level shown on page	Date shown on page
List of Effective Pages—Pages A–F	65	June 10, 2003.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos–SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Note 2: The subject of this AD is addressed in Brazilian airworthiness directive 2003-02-01, dated March 3, 2003.

Effective Date

(d) This amendment becomes effective on August 6, 2004.

Issued in Renton, Washington, on June 16, 2004.
 Ali Bahrami,
 Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
 [FR Doc. 04-14571 Filed 7-1-04; 8:45 am]
 BILLING CODE 4910-13-P